

White & Case LLP
1155 Avenue of the Americas
New York, New York 10036-2787

Tel + 1 212 819 8200
Fax + 1 212 354 8113
whitecase.com

May 10, 2015

VIA ECF

The Honorable Richard M. Berman
United States District Judge
Southern District of New York
United States Courthouse
500 Pearl Street
New York, NY 10007

Re: United States v. Evgeny Buryakov, 15 Cr. 73 (RMB)

Dear Judge Berman:

We represent the defendant in the above-referenced action. We write in response to the Government's letter of May 7, 2015, requesting a hearing under *United States v. Curcio*, 680 F.2d 881 (2d Cir. 1982), in order for the Court to "question[] Mr. Hershman about who is paying him to represent the defendant and what, if any, instructions or advice he has received from such third party with respect to his representation of the defendant." [Dkt. No. 23, at 2]. The Government's letter does not raise a *Curcio* issue, and indeed, no *Curcio* issue exists, but in any event, we would be prepared to make an *in camera* proffer to the Court that will confirm that there is no basis for a *Curcio* hearing.

As the Court knows, the Government often brings *Curcio* motions as a precaution and to create a record to protect the Government from claims on appeal relating to conflicts of interest. Here, the Government argues that because Mr. Buryakov's legal fees are being paid by a third-party not identified to the Government, there is a potential conflict of interest that must be investigated and resolved. The Government, however, takes *Curcio* too far, and the Letter Motion does not reveal any conflict of interest.

No conflict is created simply because a third-party is paying Mr. Buryakov's legal fees. In particular, we can confirm to the Court that the third-party here is not involved in this case and is not related to any co-defendant. As such, this case is markedly different from all of the authority relied upon by the Government in its Letter Motion, and the Government has not made out a *prima facie* *Curcio* problem that would require a *Curcio* hearing.

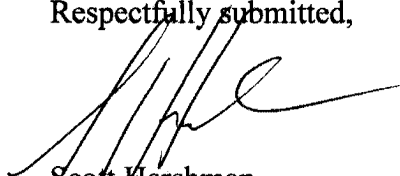
The Honorable Richard M. Berman

WHITE & CASE

In any event, as an efficient way of resolving the Letter Motion, we are prepared to make an *in camera* statement to the Court, regarding the fee arrangement for Mr. Buryakov and why there is no conflict of interest. *See United States v. Kliti*, 156 F.3d 150, 153 (2d Cir. 1998) (“In fulfilling [its] initial obligation to inquire into the existence of a conflict of interest, the trial court may rely on counsel’s representations.”).

We are prepared to appear at the Court’s convenience.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'SH', is written over the typed name 'Scott Hershman'.

Scott Hershman

Counsel for Defendant Evgeny Buryakov

cc: Adam Fee (by electronic mail)
Assistant United States Attorney